

**ENTERED**

December 14, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

EMMANUEL AVILA,  
Petitioner,

v.

ERIC GARZA, ET AL.,  
Respondents.

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Civil Action No. 1:21-cv-00056

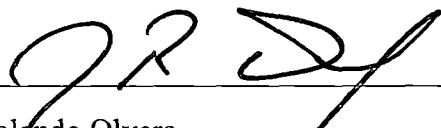
**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Before the Court is the "Magistrate Judge's Report and Recommendation" ("R&R") (Dkt. No. 27). The R&R recommends this Court (1) grant "James A. Freeberg's 12(b)(6) Motion to Dismiss for Failure to State a Claim upon Which Relief Can Be Granted" ("Motion to Dismiss") (Dkt. No. 25) and (2) dismiss with prejudice Petitioner's claims against Defendant James A. Freeberg.

Objections were due December 8, 2021. No objections were filed by either party. If there have been no objections to the magistrate's ruling, then the appropriate standard of review is "clearly erroneous, abuse of discretion and contrary to law." *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Finding no clear error, abuse of discretion, or finding contrary to law, the R&R is **ADOPTED**.

Respondent's Motion to Dismiss (Dkt. No. 25) is **GRANTED**, and Petitioner's claims against Defendant James A. Freeberg are **DISMISSED WITH PREJUDICE**.

Signed on this 14<sup>th</sup> day of December, 2021.

  
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Rolando Olvera  
United States District Judge